

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

LILLIAN L. COLORES,

Plaintiff and Appellant,

v.

THE BOARD OF TRUSTEES OF THE
CALIFORNIA STATE UNIVERSITY, et
al.,

Defendants and Respondents.

B151173

(Super. Ct. No. BC209667)

ORDER MODIFYING OPINION

[No Change In The Judgment]

THE COURT:

It is ordered that the opinion filed herein on January 31, 2003, be modified in the following particular:

On page 22, delete the entire paragraph that begins with the words “The university applies . . .” and ends on page 23, and replace it with the following:

The university applies the concept of whistle blowing too narrowly. It is true that plaintiff was simply doing her job when she uncovered the unauthorized use of state assets by Henderson and others associated with facilities operations. It is also true that she reported her findings to Avery rather than to some other

governmental agency. This, however, will not defeat her right to “whistle blower” status. First, plaintiff was employed by a governmental agency and she had every reason to expect that Avery would not sweep the information under the rug but rather would conduct an investigation into the matter, as Avery did. Thus, plaintiff, in contrast to an employee of a private employer, had no need to inform some other governmental agency in order to qualify as a “whistleblower” within the meaning of Labor Code section 1102.5, subdivision (b). (Compare with *Green v. Ralee Engineering Co.*, *supra*, 19 Cal.4th at pp. 72-73, 76-77.)

Indeed, it would seem reasonable that Avery was the person whom the university would expect plaintiff to advise about the wrongdoing she had uncovered, rather than taking it upon herself to inform some other governmental agency. Moreover, it is clear that plaintiff was an integral part of the whistle blowing process, as were Avery and Roshni Thomas (who also reported wrongdoing to Avery). It is contended by plaintiff that all three women ultimately left the university because of Garcia’s actions. Plaintiff presented the trial court with evidence that a university human relations manager always felt the three women were being targeted for termination. What the three women had in common was their gender, their status as employees in Garcia’s department, and their

activities in association with uncovering wrongdoing, and according to Avery, Garcia told her he fired Thomas because “he was not going to allow Ms. Thomas or anyone else to hold him or President Rosser hostage to information.” Suzanne Curtis felt that the person with the real concern about Avery and plaintiff was Rosser himself. Such evidence would clearly support a jury’s conclusion that the actions taken against plaintiff were in retaliation for her whistleblowing activity.

There is no change in the judgment.